IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

CRL.A.No. 131 of 2001(Y)

---

CC.1141/1998 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

.....

APPELLANT:

---

M/S.POOMKUDY AGENCIES (P) LTD.,
41/1886, VEEKSHANAM ROAD,
KOCHI-682 018, A COMPANY
REGISTERED UNDER THE INDIAN
COMPANIES ACT 1956,
REPRESENTED BY ITS ACCOUNTS
EXECUTIVE SRI T.R.JOSEPH

BY ADV. SRI.SHAJI P.CHALY

RESPONDENTS:

---

1. MANOJ T.,
PROPRIETOR,
M/S.SADANANDA AUTO PARTS,
ERANJIPALAM, CALICUT

2. STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.R.UDAYABHANU, J.**

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.A.No.131 of 2001(A)

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 17th day of July, 2007

**J U D G M E N T**

The appellant is the complainant in C.C.No.1141/1998 in the file of the Chief Judicial Magistrate, Ernakulam, the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 08/08/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

**K.R.UDAYABHANU,**
**Judge**

ms

**K.R.UDAYABHANU, J.**

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.A.No.131 of 2001(A)

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

**J U D G M E N T**

17th July, 2007